

3. The Petitioner herein filed present petition
some times on 6.2.2003. Petition was dismissed on

2.8.2004 on account of failure of the petitioners to remain present and as the earlier record shows also on several earlier dates the petitioners were not present. In the appeal preferred that order has been set aside and the matter has been remanded back to this court for re-hearing the petition.

4. At the hearing of this petition, on behalf of the Petitioner, their learned counsel submits as under :

(1) That the petitioners were not heard on the application for condonation of delay;

(2) It is further contended that the appeal was heard without complying with the mandatory requirement of Section 4(4) of the Maharashtra Slum Areas (Improvement, Clearance and Re-development) Act, 1971. Reliance for that purpose is placed on the judgement of the learned Single Judge in the case of Ramniklalbhai V. Shah and Ors. Vs. Maharashtra Slum Areas (Improvement, Clearance & Re-development) Tribunal Bombay & Ors. 1996(3) ALL M.R. 569.

(3) While condoning the delay, respondent No. 3 did not show sufficient cause.

For all these reasons it is contended
that the order should be set aside.

5. From the records it is clear that when the
delay was condoned, the petitioner herein was not
party. The Petitioner after condonation of delay
has applied for being added as a party and his
application was allowed and she was heard in the
appeal through counsel. The grievance therefore,
of the Petitioner that she was not heard when the
delay was condoned has to be rejected as she then
was not a party. If the Petitioner was still
aggrieved, the Petitioner could have moved the
Tribunal for setting aside order condoning the
delay. That also was not done. At least the
record does not show that nor is it averred in the
petition to that effect. That order to condone the
delay was passed on 30.1.2002. In the prayer
clause also the order condoning delay has not been
challenged. After the order is being pronounced,
the learned counsel seeks leave to amend the
petition and substitute the date 30.7.2002 as seen
in the prayer clause to 30.1.2002. Even if that is
considered, it will be clear that the Petitioner
nowhere in the petition has given any explanation
as to why there is delay in filing the petition
which was filed only on 6.2.2004 i.e. nearly after
two years. In the light of that no cause for
interference in so far as the order dated
30.1.2002.

. Once that be the case, the question of allowing petitioner to challenge the order on the ground of sufficiency of cause, would not arise and that also will have to be rejected.

6. The question which then arises is, as to whether the order should be set aside on the ground of non-compliance with the requirement of Section 4(4) of the Maharashtra Slum Areas (Improvement, Clearance & Re-development) Act. Section 4(4) of the said act casts a duty on the tribunal to publish in Marathi Newspaper in the locality and by other means as set out therein, in the locality inviting respondents to file their objections. The object behind said section therefore, would be that the persons interested who may be aggrieved by the order or challenge to the order can appear before the tribunal to raise these objections. In the instant case, the petitioner was not a party. The petitioner sought intervention. It cannot therefore, be said that on account of any failure if any, of the tribunal to publish the notice in local newspaper, the petitioner can be said to be aggrieved and or the order be set aside on that count. In the case of Ramniklal Bhai V. Shah (supra) it appears that the petitioner had no notice and it is in that context that the court was examining the matter. Interference under exercise of extra ordinary jurisdiction are in those cases

where palpable injustice is caused to the petitioner on account of non-publication of notice. Therefore in the instant case at the highest if there are other aggrieved persons who have not been heard and who were precluded from raising these objections on account of want of notice, their grievance if any could be understood. The Apex Court in Land Acquisition Cases in the matter of publication of notice in the locality has observed that the party must show that prejudice was occasioned on account of non publication in the locality. It may be made clear that this is not qua other mandatory requirement of publication in the gazette and daily newspaper. The Petitioner having been heard, to my mind this will not be a fit case where the order should set aside the order only on that count.

7. Apart from that the effect of the order is that the Respondent No.3's contention that she was not heard before the area was declared as slum will be considered before the tribunal. The Petitioner herein will have a right to be heard if she participates in the proceedings. All issues are left open. Considering the above, no case for interference. Petition stands rejected.

. Authenticated copy of this order be issued to the parties.

(F.I. REBELLO,J.)